

AGP

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA and STATE OF
NEW YORK, EX REL. LUCIE GABRIEL,

Plaintiffs,

-against-

BROOKLYN PLAZA MEDICAL CENTER,

Defendant.

STIPULATION OF DISMISSAL

No. 10-cv-4452 (FB)

FILED

IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ JUL 30 2014 ★

BROOKLYN OFFICE

WHEREAS, Lucy Gabriel ("Relator") filed the above-captioned action, in which she asserted claims on behalf of the United States and the State of New York (the "State"), pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3729 *et seq.*, (the "Federal FCA") and the New York False Claims Act, State Fin. Law § 187 *et seq.*, (the "NYFCA"), respectively;

WHEREAS, in accordance with 31 U.S.C. § 3730(b) and State Fin. Law § 190(2)(b), Relator's complaint was sealed for a period of at least sixty days from the date of the filing of her complaint and the service of her disclosure material on the United States and State, and that seal was subsequently extended by Orders;

WHEREAS, Relator has not served her complaint on the Defendant, and thus the Defendant has not filed an answer to the complaint;

WHEREAS, Defendant Brooklyn Plaza Medical Center, Relator, and the United States have entered into a settlement agreement resolving certain of the Federal FCA claims in Relator's complaint (the "Federal Settlement Agreement");

WHEREAS, Defendant Brooklyn Plaza Medical Center, Relator and the State, have entered into a settlement agreement resolving certain of the NYFCA claims in Relator's complaint (the "State Settlement Agreement" together with the Federal Settlement Agreement, the "Settlement Agreements");

WHEREAS, the United States, the State, and Relator seek to dismiss Relator's complaint in accordance with the provisions of the Settlement Agreements;

THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by the undersigned counsel for the United States, the State of the New York and Relator that:

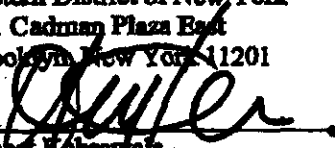
1. The Clerk of the Court shall unseal Relator's complaint, this Stipulation and Order, and the Settlement Agreements. The remaining documents on file, including the United States' applications for extensions of the seal and intervention deadlines, shall remain under seal. Any documents filed after the date of this Order shall *not* be filed under seal.
2. The United States and the State of New York shall be deemed to have intervened in this action for the purpose of settlement.
3. Relator's complaint is dismissed without prejudice as to the United States the State of New York and Relator. Once Defendant has completed full payment of the Settlement Amount as defined in the Settlement Agreements, the dismissal shall be deemed:
 - a. with prejudice with respect to Relator except with respect to her claims for retaliation and for attorneys' fees;

- b. with prejudice with respect to the United States for the Covered Conduct, subject to Paragraphs 3, 5, 7, 10, 12 and 19 in the Federal Settlement Agreement;
 - c. with prejudice with respect to the State for the Covered Conduct, subject to Paragraphs 3, 5, 7, 10, and 18 in the State Settlement Agreement; and
 - d. without prejudice as to the United States and the State of New York with respect to allegations in Relator's complaint that are not contained in the Covered Conduct.
4. The Clerk of the Court shall provide the United States Attorney's Office, for the Eastern District of New York, 271 Cadman Plaza East, Brooklyn, NY 11201, Attention AUSA Amcet Kabrawala with a copy of this fully-executed order.

Dated: July 24, 2014

LORETTA E. LYNCH
United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

By: _____


Amcet Kabrawala
Assistant U.S. Attorney
Tel. (718) 254-6001

Dated: July 24, 2014

ERIC T. SCHNEIDERMAN
Attorney General of the State of New York

By: 

Jacob M. Bergman
Special Assistant Attorney General
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New York, New York 10271
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Dated: July 23, 2014

VLADECK, WALDMAN, ELIAS
& ENGLEHARD, P.C.
Attorneys for Relator
1501 Broadway, Suite 800
New York, New York 10036

By: 

DEBRA L. RASKIN, ESQ.
Tel. (212) 403-7300

SO ORDERED.

s/Frederic Block


HONORABLE FREDERIC BLOCK
SENIOR UNITED STATES DISTRICT JUDGE

7/25/14.